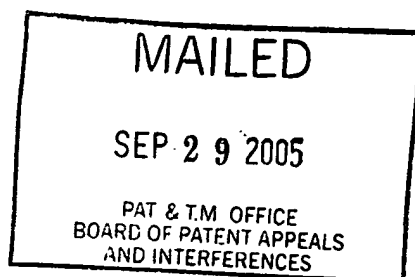




UNITED STATES PATENT AND TRADEMARK OFFICE

DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES
BOX INTERFERENCE, WASHINGTON, D.C. 20231

Filed by: Judge James T. Moore
Telephone: 571-272-9797
Facsimile: 571-273-0042



Applicants: O'SULLIVAN
Application No.: 09/091,333
Filed: 10/26/98
For: Process for the preparation of 2-chloro-5-chloromethylthiazole

The above-identified application or patent has been forwarded to the Board of Patent Appeals and Interferences because it is adjudged to interfere with another application or patent. An interference has been declared. The interference is designated as No. 105,277.

Notice is hereby given the parties of the requirement of the law for filing in the Patent and Trademark Office a copy of any agreement "in connection with or in contemplation of the termination of the interference." 35 U.S.C. § 135(c).

/ss/ James T. Moore
JAMES T. MOORE
Administrative Patent Judge

Mail Stop Interference
P.O. Box 1450
Alexandria Va 22313-1450
Tel: 571-272-9797
Fax: 571-273-0042

Paper 1

Filed September 29, 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES
(Administrative Patent Judge James T. Moore)

ANTHONY CORNELIUS O'SULLIVAN,
LAURENZ GSELL, RUDOLF NAEF,
MARCEL SENN, THOMAS PITTERNA, and
DAVID JOHN WADSWORTH,
Junior Party
(Application 09/091,333),

v.

UDO KRAATZ
Senior Party
(Patent 5,679,796).

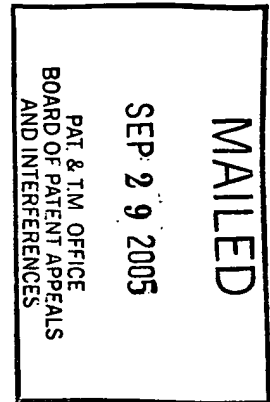
Patent Interference No. 105,277
(Technology Center 1600)

DECLARATION - Bd.R. 203(d)

Before James T. Moore, Administrative Patent Judge.¹

Part A. Declaration of interference

¹As part of Board efforts under the Government Paperwork Elimination Act, signatures on papers originating from the Board are being phased out in favor of a completely electronic record. Consequently, in this case papers originating at the Board will not have signatures. The signature requirements for the parties have not changed. See, e.g., 37 C.F.R. § 10.18.



An interference is declared (35 U.S.C. § 135(a)) between the above-identified parties. Details of the application, patent, count, and claims designated as corresponding or as not corresponding to the count appear in Parts E and F of this DECLARATION.

Part B. Judge managing the interference

Administrative Patent Judge James T. Moore has been designated to manage the interference. 37 CFR § 41.104(a) [Bd. R. 104(a)].

Part C. Standing order

A Trial Section STANDING ORDER [SO] accompanies this DECLARATION. The STANDING ORDER applies to this interference.

Part D. Initial conference call

A telephone conference call to discuss the interference is set for **1:00 p.m. on November 17, 2005** (the Board will initiate the call).

No later than **two business days** prior to the conference call, each party shall file and serve by facsimile (SO ¶ 4.5) a list of the motions (Bd. R. 120; Bd. R. 204; SO ¶ 26) the party intends to file.

A sample schedule for taking action during the motion phase appears as Form 2 in the STANDING ORDER. Counsel are encouraged to discuss the schedule prior to the conference call and to agree on dates for taking action. A typical motion period lasts approximately eight (8) months. Counsel should be prepared to justify any request for a longer period.

Part E. Identification and order of the parties

Junior Party

Named inventors: ANTHONY O'SULLIVAN, BASEL, SWITZERLAND
LAURENZ GSELL, BASEL, SWITZERLAND
RUDOLF NAEF, LUPSINGEN, SWITZERLAND
MARCEL SENN, BLONAY, SWITZERLAND
THOMAS PITTERNA, BASEL, SWITZERLAND, and
DAVID J. WADSWORTH, BATTWIL, SWITZERLAND

Application: 09/091,333, filed 26 October 1998

Title: PROCESS FOR THE PREPARATION OF
2-CHLORO-5-CHLOROMETHYL-THIAZOLE

Assignee: None

Accorded Benefit: None

Senior Party

Named Inventors: UDO KRAATZ, LEVERKUSEN, GERMANY

Patent: 5,679,796, granted 21 October 1997

Title: PROCESS FOR THE PREPARATION OF
2-CHLORO-5-CHLOROMETHYLTHIAZOLE

Assignee: BAYER AKTIENGESELLSCHAFT
D 51368 LEVERKUSEN, GERMANY

Accorded Benefit: None

The senior party is assigned exhibit numbers 1001-1999. The junior party is assigned exhibit numbers 2001-2999. Bd. R. 154(c)(1). The senior party is responsible for initiating settlement discussions. SO ¶ 18.

Part F. Count and claims of the parties

Count 1

Claim 2 of Application 09/091,333 or claim 1 of Patent 5,679,796.

The claims of the parties are:

O'Sullivan: Claims 2-7, 9-10, and 12-13

Kraatz: Claim 1

The claims of the parties which correspond to Count 1 are:

O'Sullivan: Claims 2-7, 9-10, and 12-13

Kraatz: Claim 1

The claims of the parties which do not correspond to Count 1, and therefore are not involved in the interference, are:

O'Sullivan: None

Kraatz: None

Part G. Heading to be used on papers

The heading in SO Form 1 must be used on all papers filed in this interference.

See SO ¶ 7.2.1. The administrative patent judge and parties must be indicated as follows:

UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**
(Administrative Patent Judge James T. Moore)

**ANTHONY CORNELIUS O'SULLIVAN,
LAURENZ GSELL, RUDOLF NAEF,
MARCEL SENN, THOMAS PITTERNA, and
DAVID JOHN WADSWORTH,**
Junior Party
(Application 09/091,333),

v.

UDO KRAATZ
Senior Party
(Patent 5,679,796).

**Patent Interference No. 105,277
(Technology Center 1600)**

Part H. Order form for requesting file copies

When requesting copies of files, use of SO Form 4 will greatly expedite processing of the request. Please attach a copy of Part E of this DECLARATION with a hand-drawn circle around the US patents and US applications for which a copy of a file wrapper is requested.

Part I. Required paragraph for affidavits and declarations

The Board has recently experienced a rash of cases in which a witness has belatedly advanced reasons why he or she would be unable to appear for cross examination at a reasonable time and place in the United States. Consequently, the Board is requiring the following paragraph to be included on the signature page of all affidavits (including declarations) filed in this case to prevent surprise and hardship to the party relying on the testimony of the witness:

In signing this affidavit/declaration, I recognize that the affidavit/declaration will be filed as evidence in a contested case before the Board of Patent Appeals and Interferences of the United States Patent and Trademark Office. I also recognize that I may be subject to cross examination in the case and that cross examination will take place within the United States. If cross examination is required of me, I will appear for cross examination within the United States during the time allotted for cross examination.

/ss/ James T. Moore
JAMES T. MOORE
Administrative Patent Judge

)
)
) BOARD OF PATENT
) APPEALS AND
) INTERFERENCES
)

Enc:

Copy of STANDING ORDER
Copy U.S. Patent 5,679,796
Copy of claims of 09/091,333

Revised January 2005

cc (via overnight delivery):

Attorney for O'Sullivan:

SYNGENTA CROP PROTECTION , INC.
PATENT AND TRADEMARK DEPARTMENT
410 SWING ROAD
GREENSBORO NC 27409

Attorney for Kraatz:

BAYER CORPORATION
PATENT DEPARTMENT
100 BAYER ROAD
PITTSBURGH PA 15205-9741